

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS: 02-0337
International Registration Plan
For the Year 2000

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ISSUE

I. IRP Assessment.

Authority: IC 6-8.1-5-4; IC 9-28-4-6; IRP 233; IRP 1500; Indiana 2000 IRP Information Handbook; IRP Audit Procedure Manual.

Taxpayer challenged the adequacy of the Department of Revenue's audit of taxpayer's mileage records pursuant to the International Registration Plan.

STATEMENT OF FACTS

Taxpayer is in the trucking business. During the years considered, taxpayer was primarily involved in disposing of environmentally contaminated materials. Taxpayer operates its fleet of trucks from an Indiana location. The taxpayer's trucks also operate within Illinois.

The Department of Revenue (Department) conducted an International Registration Plan (IRP) audit of taxpayer's records. The audit concluded that taxpayer's records detailing the number of miles taxpayer's trucks operated within Indiana and Illinois were inadequate. Accordingly, the audit assessed a penalty in which 100 percent of the miles driven were allocated to Indiana.

The taxpayer submitted a protest of the assessment, and an administrative hearing was conducted. During that hearing, taxpayer indicated that it could now produce records which would correctly and accurately apportion the total number of miles its trucks had driven within Indiana and within Illinois. Taxpayer was provided an opportunity to assemble the missing information and produce those records for a supplemental audit. Thereafter, the supplemental audit was conducted resulting in a substantially reduced assessment.

This Letter of Findings is written to address taxpayer's remaining challenge to the original audit report, the supplemental audit, and the propriety of the 100 percent penalty assessment.

DISCUSSION

I. IRP Assessment

The IRP is a program for registering commercial vehicles – such as taxpayer’s fleet of trucks – that operate within member jurisdictions including Indiana and Illinois. Under this program, taxpayer originally filed an apportioned registration application in Indiana because Indiana is the state in which taxpayer is based. The number of taxpayer’s trucks and the miles traveled in Indiana and Illinois were listed on the application. Taxpayer paid the full registration fee, was issued an “apportioned” license plate for the fleet of vehicles, and the plate fees were apportioned between Indiana and Illinois based upon the aggregate mileage generated by all of taxpayer’s trucks or tractors that were part of its apportioned fleet during the reporting period.

In 2002, the Department conducted an audit of taxpayer’s records to determine if the reported operating miles comported with the number of miles taxpayer’s fleet of trucks had actually operated during the year 2000. The audit’s responsibility was to assure that the initial apportionment of the license fees between Indiana as the “base state” and Illinois correctly reflected the number of miles actually driven within those two jurisdictions.

Every registrant under the IRP is responsible for maintaining accurate source records. An acceptable source record is called an Individual Vehicle Mileage Record (IVMR). As specifically provided in Indiana 2000 IRP Information Handbook – provided to each registrant – “Your operational records must be documents that support the miles traveled in each jurisdiction, and the miles traveled.” IRP Handbook p. 30.

The audit determined the taxpayer’s records were inadequate, incomplete, inaccurate or entirely absent. The movements, mileage, and destinations of taxpayer’s trucks could not be traced. The taxpayer had maintained IVMRs, but the information contained on the individual form was – in many cases – incomplete. For example, some of the IVMRs recorded total miles but no jurisdictional miles. Some of the IVMRs indicated an Illinois destination but did not record any miles within that state. Some of the IVMRs indicated an Indiana destination but did not record any miles within Indiana. Some of the IVMRs did not indicate the routes traveled. Other IVMRs did not specify the destination for each trip. Some of the IVMRs simply stated that the destination was “local” or “various.”

Because the IVMRs were insufficient, the taxpayer was asked to provide supplementary information which documented the origins and destinations by city and state. The taxpayer attempted to assemble payroll information, customer invoices, load tickets, job numbers, and dispatch logs. The taxpayer was only able to provide incomplete, reconstructed, or speculative information which did not permit the audit to be properly completed; it was not possible to complete the IRP audit. Because the audit could not be completed, it was also not possible to determine if the taxpayer’s initial reported mileage apportionment between Indiana and Illinois was correct. The resolution is provided for in the IRP regulations and – in this case – appeared especially well-warranted.

Pursuant to the audit, taxpayer was assessed a 100 percent penalty. “If adequate records are not available thirty days after notice is given, the registrant may be assessed the potential liability due to all jurisdictions or the registrant may be assessed 100 [percent] registration fees for the base jurisdiction.” IRP Audit Procedure Manual 603. In effect, because the audit could not substantiate the miles driven within the two jurisdictions, taxpayer was reassessed the amount of license fees taxpayer would have paid if it had driven exclusively Indiana miles.

During the protest hearing, taxpayer maintained that – after substantial delay – it could now produce records which would allow an accurate apportionment of the Indiana and Illinois miles. Accordingly, taxpayer was specifically informed as to what records it would need to provide and was allowed 60 days in which to gather that information.

Taxpayer assembled its various records and submitted that information in order to permit a supplemental audit. However, the supplemental information taxpayer provided was itself incomplete and did not contain all the original records requested. Nonetheless, the supplemental audit was performed based on the available information.

IC 9-28-4-6 is the source document implementing the IRP provisions and requirements within this state.

(a) The department of state revenue, on behalf of the state, may enter into reciprocal agreements providing for the registration of vehicles on an apportionment or allocation basis with the proper authority of any state, any commonwealth, the District of Columbia, a state or province of a foreign country, or a territory or possession of either the United States or of a foreign country.

(b) To implement this chapter, the state may enter into and become a member of the International Registration Plan or other designation that may be given to a reciprocity plan developed by the American Association of Motor Vehicle Administrators.

(c) The department of state revenue may adopt rules under 4-22-2 to carry out and enforce the provisions of the International Registration Plan or any other agreement entered into under this chapter.

As a licensee within Indiana, a member jurisdiction of IRP, taxpayer is subject to IC 6-8.1-5-4 which states that, “Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person’s liability for that tax by reviewing those books and records.”

In addition, IRP1500 states that, “Any registrant whose application for apportioned registration has been accepted shall preserve the records on which it is based for a period of three years after the close of the registration year. Such records shall be made available to the Commissioner at his request for audit as to accuracy of computation, payments, and assessments for deficiencies or allowances for credits during the normal business

hours of the day.” The IRP specifies which records each registrant must maintain; “‘Operational Records’ means documents supporting the total distance traveled in each jurisdiction and total distance traveled such as fuel reports, trip sheets and driver logs.” IRP232.

Specifically, taxpayer is responsible for maintaining source documents which includes the following basic information.

- The starting and ending dates of the trip.
- The trip origin and destination by city and state.
- The route of travel and/or the beginning and ending odometer or hubometer reading of the trip.
- The total trip miles.
- The mileage by jurisdiction.
- The unit number or the vehicle identification number.
- The vehicle fleet number.
- The registrant’s name.
- The trailer unit number.
- The driver’s signature and/or name. IRP Handbook p. 30.

The nature of the specified information is clear, precise, and admits of no ambiguity. As stated in the Handbook, “IVMR’s *must* contain the . . . basic information.” Id. (*Emphasis in original*). During an audit, supplemental, recreated, or summarized information are not an acceptable substitute for the source documents. “Computer printouts and monthly reports such as fuel reports are merely recaps and are not acceptable at face value. These *must* be supported by an IVMR in order to be of any use during an audit.” Id. (*Emphasis in original*).

Taxpayer’s argument, that it was not required to record trip origins and destinations by city and state and that all was necessary to do was record either odometer readings or routes of travel together with a generalized breakdown in jurisdiction miles, is entirely fanciful and is unsupported by the rules cited or by simple, common sense. In addition, taxpayer’s assertion that the audit carelessly lost or deliberately stole the missing records is equally far-fetched and does not warrant further discussion within this Letter of Findings.

The original audit was entirely justified in determining that the records presented at that time were inadequate; the audit was equally justified in imposing the 100 percent reassessment. Nonetheless, taxpayer was provided an additional opportunity to belatedly assemble information necessary to perform a supplemental audit and, despite the inadequacy of the after-assembled information, the original assessment was adjusted downward. Taxpayer has no basis whatsoever in challenging the results of the supplemental audit. Taxpayer may have been blithely unaware of the record keeping requirements imposed under IRP; such is no longer the case. If taxpayer was previously oblivious of these requirements, it now no longer is. The taxpayer is given notice that the

Department will no longer accept or consider records which are incomplete, inadequate, or ambiguous.

FINDING

Taxpayer's challenge to the results of the original and supplemental audit is denied.

DK/JM/MR - 031303